



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
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DEC 18 2014

**MEMORANDUM**

SUBJECT: FY 2015 State Oversight Activities

FROM: Beverly H. Banister, Director *J. M. G. for 12/13/14*  
Air, Pesticides and Toxics Management Division

TO: J. Scott Gordon, Associate Director  
Office of Environmental Accountability

With this memorandum I am providing the Air, Pesticides and Toxics Management Division's (APTMD's) plan for conducting oversight of our Clean Air Act (CAA) delegated programs in FY 2015. The plan consists of a number of ongoing oversight activities, continued collaboration with your office in conducting State Review Framework (SRF) evaluations of selected state and local programs, and new activities, including oversight inspections and differential focus on potential problems identified by your office through the Annual Data Metrics Analysis (DMA) process. The specific elements of the plan are identified below:

- Semi-annual review of §105 grant commitments for compliance and enforcement
- Review of Compliance Monitoring Strategy (CMS) inspection commitments
- Oversight of high priority violations (HPVs) through regular calls/meetings
- Participation in SRF reviews and follow-up on SRF recommendations
- Review of trends identified through OEA's Annual DMA process
- Conduct oversight inspections

§105 Grant Commitment Review

A cornerstone of each state or local program's responsibilities for compliance and enforcement is the commitments they make through the Air Planning Agreement associated with the §105 grant. My office reviews program performance against these commitments at mid-year and end-of-year. For the stationary source program, key focus areas include data reporting and management, reporting of federally reportable violations, cooperation in EPA criminal investigations, and compliance assistance.

Review of Compliance Monitoring Strategy (CMS) inspections commitments

APTMD will continue to review and approve biennial CMS plans submitted by each state or local program pursuant to EPA's Stationary Source Compliance Monitoring Strategy. In general, state and local programs are expected to conduct full compliance evaluations (FCEs) at each major source every two years, and at each synthetic minor 80% (SM80) every five years.

## Oversight of HPVs

APTMD state coordinators will continue to conduct monthly or bi-monthly conference calls or meetings with state and local program managers to discuss new and ongoing HPVs. This oversight activity helps to ensure that state and local staff are properly identifying HPVs, and that timely and appropriate enforcement actions are being taken to address those HPVs. In August 2014, the Office of Enforcement and Compliance Assurance (OECA) issued a revised HPV Policy that became effective on October 1, 2014. FY15 is expected to be a year of transition as EPA, state and local enforcement and compliance staff become familiar with and gain experience implementing the new policy. In addition, the transition from AFS to ICIS-Air will add a layer of complexity to the process as each state and local agency begins interacting with the database. In cooperation with OEA and OECA, the region will host a webinar on January 13, 2015, to train EPA, state and local program staff on the new HPV Policy.

## Participation in SRF Reviews and Recommendation follow-up

As in previous years, APTMD will continue to assist OEA in conducting SRF reviews of each State on a four-year cycle. An SRF review is expected to be conducted in two states and one local program in FY15. APTMD participated in the file review for the Kentucky Department of Environmental Protection in the 1<sup>st</sup> quarter of FY15. For the other states as applicable, APTMD staff will work with OEA to track outstanding SRF recommendations and coordinate with the state and local program managers to ensure that appropriate procedures and practices are implemented and performance improvements are realized.

## Review of Trends Identified through OEA's Annual DMA process

A new feature APTMD is incorporating into its oversight activities in FY15 is a review of the enforcement and compliance trend information shared in your October 22, 2014, memorandum and the Annual DMAs for each of the states. This information has identified at least one state for which APTMD plans to utilize the concept of differential oversight. More specifically, based on this trend analysis, APTMD has identified that the Tiered Enforcement Policy currently being implemented in North Carolina may have contributed to a significant drop in the identification of HPVs and the taking of formal enforcement actions with penalties. Specifically, in FY14 the state issued 69 notices of violation (NOVs) and only two formal enforcement actions both of which were HPVs. To better understand the impact of the Tiered Enforcement Policy, APTMD, in cooperation with OEA, plans to conduct file reviews in North Carolina to evaluate the identification of federally reportable violations (FRVs) and HPVs. This file review will be conducted in 2<sup>nd</sup> or 3<sup>rd</sup> quarter.

## State Oversight Inspections

Beginning in FY15, APTMD plans to conduct a limited number of oversight inspections to determine the effectiveness of state and local personnel with regard to inspection activities both in the field and in the office. The oversight inspections will review pre-inspection preparation, the onsite inspection, and post inspection activities. A detailed Oversight Inspection Protocol has been developed for use by field staff, and it is attached for your reference. APTMD expects to conduct oversight inspections in at least two states and two local programs in FY15. These inspections will occur during 2<sup>nd</sup> and 3<sup>rd</sup> quarter. The specific programs to be evaluated will be identified and shared with OEA in January 2015.

A more detailed protocol is being prepared for the air enforcement staff. Should you have any questions regarding APTMD's state oversight plans, please contact Beverly Spagg at extension 29170.

Attachment